

AMENDMENTS TO LB 204

(Amendments to E & R amendments, ER64)

Introduced by Council

1           1. Strike the original sections and all amendments  
2 thereto and insert the following new sections:

3           Section 1. Section 79-217, Revised Statutes Cumulative  
4 Supplement, 2010, is amended to read:

5           79-217 (1) Except as provided in sections 79-221  
6 and 79-222, the school board or board of education of each  
7 school district and the governing authority of each private,  
8 denominational, or parochial school in this state shall require  
9 each student to be protected against measles, mumps, rubella,  
10 poliomyelitis, diphtheria, pertussis, and tetanus by immunization  
11 prior to enrollment. ~~Any student who does not comply with this~~  
12 ~~section shall not be permitted to continue in school until he or~~  
13 ~~she so complies, except as provided by section 79-222.~~ Each school  
14 district shall make diligent efforts to inform families prior to  
15 the date of school registration of the immunization requirements  
16 of this ~~section.~~ subsection.

17           (2) Except as provided in sections 79-221 and 79-222, on  
18 and after July 1, 2012, the school board or board of education of  
19 each school district and the governing authority of each private,  
20 denominational, or parochial school in this state shall require  
21 each student entering kindergarten to have undergone blood-lead  
22 testing before the age of six years. Parents and guardians are

1 strongly encouraged to have their children tested for elevated  
2 blood-lead levels after the age of twelve months and before the age  
3 of four years. Each school district shall make diligent efforts to  
4 inform families prior to the date of school registration of the  
5 blood-lead testing requirements of this subsection, including the  
6 desirable age for blood-lead testing.

7 (3) Except as provided in sections 79-221 and 79-222,  
8 on and after July 1, 2010, every student entering the seventh  
9 grade shall have a booster immunization containing diphtheria and  
10 tetanus toxoids and an acellular pertussis vaccine which meets the  
11 standards approved by the United States Public Health Service for  
12 such biological products, as such standards existed on January 1,  
13 2009.

14 (4) Except as otherwise provided in section 79-222,  
15 any student who does not comply with this section shall not be  
16 permitted to continue in school until he or she so complies.

17 ~~(3)~~ (5)(a) Except as provided in the Childhood Vaccine  
18 Act, the cost of such immunizations under subsection (1) or (3)  
19 of this section shall be borne by the parent or guardian of each  
20 student who is immunized or by the Department of Health and Human  
21 Services for those students whose parent or guardian is financially  
22 unable to meet such cost.

23 (b) The cost of such blood-lead testing shall be borne  
24 by the parent or guardian of each student who is tested or, for  
25 those students who are participating in medicaid or CHIP as such  
26 terms are defined in section 68-969, by the Department of Health  
27 and Human Services using funds appropriated by the Legislature from

1 the Nebraska Health Care Cash Fund.

2 (6) For purposes of this section and sections 79-219 to  
3 79-222:

4 (a) Blood-lead testing means taking a capillary sample of  
5 blood or venous sample of blood and sending it to a laboratory to  
6 determine the level of lead in the blood;

7 (b) Capillary sample of blood means a blood sample taken  
8 from the finger or heel;

9 (c) Laboratory means a clinical laboratory certified  
10 pursuant to the federal Clinical Laboratories Improvement Act of  
11 1967, as such act existed on January 1, 2011; and

12 (d) Venous sample of blood means a blood sample taken  
13 from a vein in the arm.

14 Sec. 2. Section 79-219, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 79-219 The Department of Health and Human Services shall  
17 adopt and promulgate rules and regulations relating to the required  
18 levels of protection, blood-lead testing, provisional enrollment  
19 under the provisions of section 79-222, the evidence necessary  
20 to prove that the required examination, blood-lead testing, or  
21 immunization has been received, and the reporting of each student's  
22 immunization and blood-lead testing status. The department may  
23 modify, add to, or delete from the list of required immunizations  
24 set out in section 79-217. The department shall furnish local  
25 school authorities with copies of such rules and regulations and  
26 any other material which will assist in the carrying out of  
27 sections 79-214 and 79-217 to 79-223.

1           Sec. 3. Section 79-220, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           79-220 At the time the parent or guardian of any child  
4 is notified that such child must have a physical examination and  
5 a visual evaluation pursuant to section 79-214 or immunizations  
6 and blood-lead testing pursuant to section 79-217, the parent or  
7 guardian shall also be notified in writing of (1) his or her right  
8 to submit a written statement refusing a physical examination, a  
9 visual evaluation, blood-lead testing, or immunization for his or  
10 her child and (2) a telephone number or other contact information  
11 to assist the parent or guardian in receiving information regarding  
12 free or reduced-cost visual evaluations for low-income families who  
13 qualify.

14           Sec. 4. Section 79-221, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16           79-221 ~~Immunization~~ (1) The immunizations required by  
17 section 79-217 shall not be required for a student's enrollment in  
18 any school in this state if he or she submits to the admitting  
19 official either of the following:

20           ~~(1)~~ (a) A statement signed by a physician, a physician  
21 assistant, or an advanced practice registered nurse practicing  
22 under and in accordance with his or her respective certification  
23 act, stating that, in the health care provider's opinion, the  
24 immunizations required would be injurious to the health and  
25 well-being of the student or any member of the student's family or  
26 household; or

27           ~~(2)~~ (b) An affidavit signed by the student or, if he

1 or she is a minor, by a legally authorized representative of the  
2 student, stating that the immunization conflicts with the tenets  
3 and practice of a recognized religious denomination of which the  
4 student is an adherent or member or that immunization conflicts  
5 with the personal and sincerely followed religious beliefs of the  
6 student.

7 (2) The blood-lead testing required by section 79-217  
8 shall not be required for a student's enrollment in any school in  
9 this state if he or she submits to the admitting official any of  
10 the following:

11 (a) A statement signed by a physician, a physician  
12 assistant, or an advanced practice registered nurse practicing  
13 under and in accordance with his or her respective certification  
14 act, stating that, in the health care provider's opinion, the  
15 blood-lead testing required would be injurious to the health and  
16 well-being of the student or any member of the student's family or  
17 household;

18 (b) An affidavit signed by the student or, if he or she  
19 is a minor, by a legally authorized representative of the student,  
20 stating that the blood-lead testing conflicts with the tenets  
21 and practice of a recognized religious denomination of which the  
22 student is an adherent or member or that blood-lead testing  
23 conflicts with the personal and sincerely followed religious  
24 beliefs of the student; or

25 (c) A statement signed by a physician, a physician  
26 assistant, or an advanced practice registered nurse practicing  
27 under and in accordance with his or her respective certification

1 act, stating that, in such physician's, physician assistant's, or  
2 advanced practice registered nurse's opinion, the child has been  
3 assessed as being at very low risk for elevated blood-lead levels,  
4 based upon information provided by the parent or guardian. For  
5 purposes of this subdivision, very low risk means that the child  
6 (i) has not lived in or spent significant time in any building  
7 built before 1960, (ii) has not eaten nonfood items, (iii) has  
8 not lived with or frequently come in contact with an adult who  
9 works with lead on the job or as part of a hobby, (iv) has  
10 not lived near a battery manufacturing plant, battery recycling  
11 plant, lead smelter, or other source of significant lead emissions,  
12 (v) was not born in or has not spent more than three months  
13 in Mexico, Central America, Eastern Europe, or Southeast Asia,  
14 (vi) has not ingested food, candy, or remedies containing lead,  
15 (vii) has not played with toys, jewelry, or other items recalled  
16 by the United States Consumer Product Safety Commission due to  
17 lead contamination, and (viii) has not had significant exposure to  
18 any other product or substance determined to contain lead by the  
19 United States Environmental Protection Agency, the United States  
20 Department of Housing and Urban Development, or the Centers for  
21 Disease Control and Prevention or the Food and Drug Administration  
22 of the United States Department of Health and Human Services.

23           Sec. 5. Section 79-222, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25           79-222 (1) A student may be provisionally enrolled in  
26 a school in Nebraska if he or she meets either of the following  
27 qualifications:

1           (a) (i) The student, if having not received the  
2 immunizations required by section 79-217, has begun the  
3 immunizations required under such section 79-217 and is receiving  
4 the necessary immunizations as rapidly as is medically feasible;  
5 and ~~or~~

6           (ii) The student, if having not undergone the blood-lead  
7 testing required by section 79-217 for enrollment in any school in  
8 the state, is scheduled to undergo blood-lead testing; or

9           (b) The student is the child or legal ward of an officer  
10 or enlisted person on active duty in any branch of the military  
11 services of the United States or of his or her spouse, enrolling  
12 in a Nebraska school following residence in another state or in a  
13 foreign country.

14           (2) As a condition for the provisional enrollment of a  
15 student qualified for such enrollment under subdivision (1)(b) of  
16 this section, a parent or adult legal guardian of the student  
17 shall provide the school with a signed written statement certifying  
18 (a) that the student has completed the course of immunizations  
19 required by section 79-217 and (b) that the student will undergo  
20 blood-lead testing within fifteen days or the date and results of  
21 the student's blood-lead testing.

22           (3) The provisional enrollment of a student qualified for  
23 such enrollment under subdivision (1)(b) of this section shall not  
24 continue beyond sixty days from the date of such enrollment. At  
25 such time the school shall be provided, with regard to the student,  
26 written evidence of compliance with section 79-217. The student  
27 shall not be permitted to continue in school until such evidence of

1 compliance is provided.

2           Sec. 6. If a child's blood-lead level is ten micrograms  
3 or more of lead per deciliter of blood, the Department of Health  
4 and Human Services shall notify such child's parent or guardian  
5 of (1) the availability of special education services pursuant to  
6 the Special Education Act for children with lead poisoning who  
7 are classified as other health impaired as defined in section  
8 79-1118.01 and the criteria necessary for a child to be classified  
9 as other health impaired and (2) the contact information for and  
10 resources available through a program operated by the State of  
11 Nebraska that provides information to parents on child development  
12 and special education for children from birth or date of diagnosis  
13 to age twenty-one and helps parents access information on rights  
14 and resources to help them advocate for an appropriate education  
15 for their child.

16           Sec. 7. Original sections 79-219, 79-220, 79-221, and  
17 79-222, Reissue Revised Statutes of Nebraska, and section 79-217,  
18 Revised Statutes Cumulative Supplement, 2010, are repealed.